

1 George Rikos, Esq. (SBN 204864)  
2 **LAW OFFICES OF GEORGE RIKOS**  
3 555 West Beech Street, Suite 500  
4 San Diego, CA 92101  
5 Telephone: (858) 342-9161  
6 Facsimile: (858) 724-1453  
7 Email: george@georgerikoslaw.com

8 Attorneys for Plaintiff,  
9 Victoria Jamison

**ELECTRONICALLY FILED**  
Superior Court of California,  
County of San Diego  
**06/17/2021** at 10:20:06 AM  
Clerk of the Superior Court  
By Carolina Miranda, Deputy Clerk

10  
11 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**  
12 **COUNTY OF SAN DIEGO**

13 VICTORIA JAMISON, an individual

14 Plaintiff,

15 v.

16 HOOSIER HILL FARM, LLC, an Indiana  
17 limited liability company; NATURAL  
18 FOODS, Inc., an Ohio corporation;  
19 WALMART, Inc., a Delaware corporation and  
20 DOES 1 through 10, inclusive

21 Defendants.

Case No. 37-2021-00026483-CU-MC-CTL

**COMPLAINT FOR INJUNCTIVE  
RELIEF AND CIVIL PENALTIES**

22 Plaintiff Victoria Jamison (“Plaintiff”) brings this action in the interests of the general public  
23 and, on information and belief, hereby alleges:

24 **INTRODUCTION**

25 1. This action seeks to remedy the continuing failure of defendants to warn individuals  
26 in California that they are being exposed to the chemical acrylamide by their product, the Hoosier  
27 Hill Farm Molasses Powder (“Product”).

28 2. California’s Proposition 65 (Health & Safety Code § 25249.5, *et seq.*), is a right to  
know statute. Under Proposition 65, it is unlawful for business to knowingly and intentionally  
expose individuals in California to chemicals known to the State to cause cancer, birth defects, or



1 of California to render the exercise of jurisdiction over this defendant by the California courts  
2 consistent with traditional notions of fair play and substantial justice.

3 8. Venue in this action is proper in the San Diego Superior Court because Defendant  
4 has violated or threaten to violate California law in the County of San Diego.

5 **PARTIES**

6 9. Plaintiff Victoria Jamison is a resident of San Diego County California and  
7 working to protect human health and the environment. Plaintiff is a person with the meaning of  
8 Health & Safety Code § 25118 and brings this enforcement action in the public interest pursuant to  
9 Health & Safety Code § 25249.7(d).

10 10. Defendant Hoosier Hill Farm, LLC is a limited liability company organized under  
11 the State of Indiana. Defendant Natural Foods, Inc. is a corporation organized under the State of  
12 Ohio. Defendant Walmart, Inc. is a corporation organized under the State of Delaware. As such,  
13 all of the Defendants are a person doing business with the meaning of Health & Safety Code §  
14 25249.11.

15 11. Defendants have manufactured, packaged, distributed, marketed and/or offered the  
16 Product for sale or use in California and the County of San Diego. Plaintiff is informed and  
17 believes, and thereupon alleges, that Defendant continues to manufacture, package, distribute,  
18 market and/or sell the Products in California and in San Diego County.

19 **STATUTORY BACKGROUND**

20 12. The People of the State of California have declared in Proposition 65 their right  
21 “[t]o be informed about exposures to chemicals that cause cancer, birth defects, or other  
22 reproductive harm.” Section 1(b) of Initiative Measure, Proposition 65.

23 13. To implement this goal, Proposition 65 requires that individuals be provided with a  
24 “clear and reasonable warning” before being exposed to substances listed by the State of  
25 California as causing cancer or reproductive toxicity. Health & Safety Code § 25249.6 states, in  
26 pertinent part:

27 No person in the course of doing business shall knowingly and intentionally  
28 expose any individual to a chemical known to the state to cause cancer or  
reproductive toxicity without first giving clear and reasonable warning to such

1 individual...

2 14. “Knowingly” refers to knowledge of the fact that a discharge of, release of, or  
3 exposure to a chemical listed pursuant to Section 25249.8(a) of the Act is occurring. No  
4 knowledge that the discharge, release or exposure is unlawful is required.” 27 Cal. Code of Regs.  
5 (“CCR”) §§ 25102(n).

6 15. Proposition 65 provides that any “person who violates or threatens to violate” the  
7 statute may be enjoined in a court of competent jurisdiction. Health & Safety Code § 25249.7.  
8 The phrase “threaten to violate” is defined to mean creating “a condition in which there is a  
9 substantial probability that a violation will occur.” Health & Safety Code § 25249.11(e).  
10 Violators are liable for visit penalties of up to \$2,500 per day for each violation of the Act. Health  
11 & Safety Code § 25249.7.

12 16. On January 1, 1990, the State of California officially listed the chemical acrylamide  
13 as a chemical known to cause cancer. Acrylamide became subject to the warning requirement one  
14 year later and was therefore subject to the “clear and reasonable” warning requirements of  
15 Proposition 65 beginning on January 1, 1991. Health & Safety Code § 25249.6 *et seq.*; 27 Cal.  
16 Code Regs. §§ 25000, *et seq.* Due to the carcinogenicity of acrylamide, the no significant risk  
17 legal for acrylamide is 0.2 µg/day (micrograms per day). 27 Cal. Code Regs. § 25705(b)(1).

18 **FACTUAL BACKGROUND**

19 17. To test Defendant’s Products for acrylamide, Plaintiff hired a well-  
20 respected and accredited testing laboratory. The results of testing undertaken by Plaintiff of the  
21 Products show that they were in violation of the 0.2 microgram per day (“µg/day”) for acrylamide  
22 “safe harbor” daily dose limits set forth in Proposition 65’s regulations.

23 18. Based on testing results, on March 25, 2021, Plaintiff sent a 60-Day Notice of  
24 Proposition 65 Violations (“Notice”) to defendants regarding the Product.

25 19. On the same day they were sent to Defendants, each Notice was also sent to the  
26 requisite public enforcement agencies.

27 20. Each of the Notices described above were issued pursuant to, and in compliance  
28 with, the requirements of Health & Safety Code § 25249.7(d) and the statute’s implementing

1 regulations regarding the notice of the violations to be given to certain public enforcement  
2 agencies and to the violators. Each of the Notices included, *inter alia*, the following information:  
3 the name, address, and telephone number of the noticing individuals; the name of the alleged  
4 violator; the statute violated; the approximate time period during which violations occurred; and  
5 descriptions of the violations, including the chemical involved, the routes of toxic exposure, and  
6 the specific product or type of product causing the violations, and was issued as follows:

- 7 a. The relevant Defendant was provided a copy of the Notice by U.S. Mail.
- 8 b. The relevant Defendant was provided a copy of the document entitled “The  
9 Safe Drinking Water and Toxic Enforcement Act of 1986 (Proposition 65): A  
10 Summary,” which is also known as Appendix A to Title 27 of Cal. Code Regs §  
11 25903.
- 12 c. The California Attorney General was provided a copy of the Notice via online  
13 submission.
- 14 d. The California Attorney General was provided with a Certificate of Merit by  
15 the attorney for the noticing party, stating that there is a reasonable and  
16 meritorious case for this action, and attaching factual information sufficient to  
17 establish a basis for the certificate, including the identity of the persons  
18 consulted with and relied on by the certified, and the facts, studies, or other data  
19 reviewed by those persons, pursuant to Health & Safety Code § 25249.7(h)(2).
- 20 e. The district attorneys, city attorneys or prosecutors of each jurisdiction within  
21 which the Products are offered for sale within California were provided with a  
22 copy of the Notice pursuant to Health & Safety Code § 25249.7(d)(1).

23 21. At least 60-days have elapsed since Plaintiff sent each of the Notices to Defendants.  
24 The appropriate public enforcement agencies have failed to commence and diligently prosecute a  
25 cause of action under Health & Safety Code § 25249.5, *et seq.* against Defendants based on the  
26 allegations herein.

27 22. On information and belief, the Products have been manufactured,  
28 distributed, and/or sold by Defendants for consumption in California. On information and belief,

1 the Product continues to be distributed and sold in California without the requisite warning  
2 information.

3 23. At all times relevant to this action, Defendants have knowingly and intentionally  
4 exposed the users of the Products to acrylamide without first giving a clear and reasonable  
5 warning to such individuals.

6 24. As a proximate result of acts of Defendants as persons in the course of doing  
7 business within the meaning of Health & Safety Code § 25249.11, individuals throughout the  
8 State of California, including the County of San Diego, have been exposed to acrylamide without  
9 a clear and reasonable warning. The individuals subject to the illegal exposures include normal  
10 and foreseeable users of the Products, as well as all other persons exposed to the Products.

11  
12 **FIRST CAUSE OF ACTION**  
13 **(Violations of Health and Safety Code § 25249.5, *et seq.*)**

14 25. Plaintiff re-alleges and incorporates by reference Paragraphs 1 through 24,  
15 inclusive, as if specifically set forth herein.

16 26. Defendants are each a person doing business within the meaning of Health &  
17 Safety Code § 25249.11.

18 27. Acrylamide is listed on the State of California as a chemical known to cause  
19 cancer.

20 28. Defendants have and continue to knowingly and intentionally expose individuals  
21 who ingest the Products to the chemical acrylamide without first providing a clear and reasonable  
22 warning to such individuals pursuant to Health & Safety Code §§ 25249.6 and 25249.11(f).

23 29. Continuing commission by Defendants of the acts alleged above will irreparably  
24 harm the citizens of the State of California, for which harm they have no plain, speedy, or  
25 adequate remedy at law.

26 ///

27 ///

28 ///

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

**PRAYER FOR RELIEF**

Wherefore, Plaintiff prays for the following relief:

1. A preliminary and permanent injunction, pursuant to Health & Safety Code § 25249.7(b), enjoining Defendants, their agents, employees, assigns and all persons acting in concert or participating with Defendants, from distributing or selling the Products in California without first providing a clear and reasonable warning that consumers of the Products are exposed to acrylamide;
2. An injunctive order, pursuant to Health & Safety Code § 25249.7(b), compelling Defendants to identify and locate each individual who has purchased the Product and to provide a warning to such persons that consumption of the Products will expose the consumers to a chemical known to cause cancer.
3. An assessment of civil penalties pursuant to Health & Safety Code § 25249.7(b) against Defendants in the amount of \$2,500 per day for each violation of Proposition 65;
4. An award to Plaintiff of its reasonable attorney’s fees and costs of suit pursuant to California Code of Civil Procedure § 1021.5, as Plaintiff shall specify in further application to the Court; and,
5. Such other and further relief as may be just and proper.

DATED: June 17, 2021

**LAW OFFICES OF GEORGE RIKOS**

*George Rikos*  
\_\_\_\_\_  
George Rikos  
Attorney for Plaintiff  
Victoria Jamison